

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 540 – SB 965

February 28, 2013

SUMMARY OF ORIGINAL BILL: Establishes a procedure for persons intending to file suit against a local government entity or their employee for a practice, policy, or custom that is perceived to be in violation of the Establishment Clause, including written correspondence between the local government entity and the claimant prior to suit being filed, a period of time for the local government to come into compliance with the Clause, and a process for filing suit if compliance is not met or the local government entity challenges the claim. Creates a Class A misdemeanor offense punishable by fine only for persons repeatedly threatening to initiate legal action against the local government

FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Expenditures – Net Impact – Exceeds \$19,000

SUMMARY OF AMENDMENT (003747): Removes references to federal courts, making the provisions the bill as amended applicable only to establishment clause claims filed in a state court. Specifies the created Class A misdemeanor offense, punishable by fine only, applies to persons communicating with a local government or their employee in an offensively repetitious manner with the intent to influence or persuade, or for making communication knowing it will alarm or annoy the local government or their employee.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note

Assumptions for the bill as amended:

- According to the Attorney General's office, this bill as amended will not fiscally impact the Agency.
- Based on information provided by the Department of Education, the bill as amended will not fiscally impact the Department.

- According to the Administrative Office of the Courts, any cost associated with the establishment of an affidavit form for the purposes of this bill can be accommodated within existing resources without an increased appropriation or reduced reversion.
- If the perceived violation involves an employee of a local government entity, the local government entity is responsible for following the procedure established by the bill as amended on the behalf of the employee.
- The bill as amended requires any correspondence regarding alleged violations between a local government entity and a claimant to be conducted by certified mail.
- Based on information on the United States Postal Service website, sending certified mail requires an additional \$3.10 per mailing.
- While it is indeterminable how many local governments will be responsible for replying to claimant allegations, and the number of any such correspondences that will need to be sent certified mail, the recurring increase in local government expenditures for certified mailings is reasonably estimated to exceed \$1,000 statewide.
- The bill establishes a procedure to allow local governments an opportunity to address allegations of violations prior to a suit being filed which could decrease local government expenditures for costs associated with attorney's fees and litigation.
- Due to several unknown variables, including but not limited to, the number of lawsuits that will be prevented from the implementation of this bill, and the extent of expenditures made by local governments for attorney's fees and litigation in the absence of the bill, a precise impact to local government cannot be determined; however, the recurring decrease in local government expenditures is reasonably estimated to exceed \$20,000 statewide.
- The total net recurring decrease in local government expenditures is estimated to exceed \$19,000 (\$20,000 - \$1,000).
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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